

TITLE 16. BOARD OF REGISTERED NURSING

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing is proposing to take the action described in the Informative Digest. Any interested person may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

Date: February 17, 2009
Time: 10:00 a.m.
Board of Registered Nursing
1625 N. Market Blvd., Suite N-220 (El Dorado Room)
Sacramento, California

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Registered Nursing (Board) at its office not later than 5:00 p.m. on February 17, 2009, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2708.1, 2715, 2761(a)(4), 2761(f), and 2811.5 of the Business and Professions Code, and to implement, interpret or make specific Sections 2734, 2761(a)(4), 2761(f), 2811, and 2811.5 of said Code, and Penal Code Section 11105(b)(10) the Board is considering changes to Division 14 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST

Business and Professions Code Section 2715 authorizes the Board to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Nursing Practice Act. The Board is proposing the following changes:

Amend Section 1419.

Existing regulations provide that a renewal application shall be on the form provided by the Board, accompanied by the fee and required information, and filed with the Board. This proposal would require that: (1) as a condition of renewal for a license that expires on or after March 1, 2009, a licensee, who was never fingerprinted by the Board or for whom a fingerprint record no longer exists, furnish to the Department of Justice (DOJ) a full set of fingerprints for the purpose of conducting a criminal history record check, and a state and federal criminal offender record information search. The requirement is waived under specified conditions. The renewal applicant will be required to certify whether he or she has complied with the fingerprint requirement. Failure to comply with the requirement would constitute grounds for disciplinary action by the Board; (2) all renewal applicants disclose on the renewal form, whether since his or her last license renewal, he or she has been convicted of any violation of the law, with specified exceptions, in this state or any other state, or if he or she has had a license disciplined by a governmental agency or other disciplinary body. The proposal also specifies that failure to provide all information required in the Section may render the renewal application incomplete and therefore not eligible for renewal.

The existing Section has been reformatted to accommodate the additional renewal requirements and action that may be taken for failure to comply with the requirements.

Amend Section 1419.1.

Existing regulations specify that if a licensee wants to activate an inactive license, the licensee must submit a written request and evidence of 30 hours of approved continuing education taken during the two-year period immediately preceding the request for activation. This proposal would require that a licensee, who was never fingerprinted by the Board or for whom a fingerprint record no longer exists, must also furnish a full set of fingerprints as a condition of activating an inactive license.

Amend Section 1419.3.

Existing regulations provide, in relevant part, for the reinstatement of an expired license if the licensee pays the renewal and penalty fees and submits evidence of 30 hours of continuing education taken within the prior two-year period. This proposal would require that a licensee, who was never fingerprinted by the Board or for whom a fingerprint record no longer exists, must also furnish a full set of fingerprints as a condition of reinstating the expired license.

The majority of the proposed regulatory language was approved by the Office of Administrative Law as an emergency regulatory action based on Sections 11346.1 and 11349.6 of the Government Code on 11/24/2008 and will expire on 5/27/2009.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funds to the State: The processing of records and other reports generated from (1) fingerprinting of the approximate 147,000 registered nurses, who have never been fingerprinted or for whom a record no longer exists, and (2) the self-reporting of license discipline and convictions by license renewal applicants will necessitate addition of 6.5 permanent and 4.5 limited term two-year Board positions, and related costs for the Office of the Attorney General, Office of Administrative Hearings, and Division of Investigation. There are no costs/savings in federal funds to the state. The estimated cost per fiscal year is:

2008-09 = \$491,000
2009-10 = \$1,678,000
2010-11 = \$1,672,000
2011-12 and ongoing = \$1,235,000

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Cost Impact on Representative Private Persons or Businesses: Registered nurses, who have not previously been fingerprinted for the Board or for whom a fingerprint record no longer exists, will be required to be fingerprinted at the time of license renewal, reactivation, or reinstatement. The cost for a person to get fingerprinted is approximately \$65.00. Of this fee, \$51.00 goes to the DOJ for conducting the background check and providing criminal record reports to the Board; \$14.00 goes to the vendor for fingerprinting the individual. The vendor's fee ranges from \$5.00 to \$45.00 with the average fee being \$14.00.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

This regulatory proposal will not have a significant economic impact on small businesses. There are approximately 750 vendors statewide, including small businesses, which provide fingerprinting services. There should be no initial or ongoing cost impact upon the vendors because they are already equipped to provide the service, and the fingerprinting of the approximate 147,000 registered nurses will be extended over a two (2) year period.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board considered requiring all registered nurses not previously fingerprinted or for whom no fingerprint record existed to be fingerprinted upon approval of the new regulation; however, it was determined that this alternative was not feasible for the Board and DOJ due to staffing, workload and resources being limited.

Any interested person may present statements or arguments orally or in writing relevant to alternatives to the proposed regulations during the written comment period or at the public hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Registered Nursing at 1625 N. Market Blvd., Suite N-217, Sacramento, California.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed amendments is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to Alcidia Valim at (916) 574-7684; fax to (916) 574-8637; or e-mail to alcidia_valim@dca.ca.gov.

For questions relating to the substance of the regulatory proposal, contact Geri Nibbs at (916) 574-7682, or fax to (916) 574-8637; or email to geri_nibbs@dca.ca.gov.

Website Access: Materials regarding this proposal can be found at the Board's website: www.rn.ca.gov.